

Serial No.: 10/804,841
Attorney Docket No.: 461987-024
RESPONSE

Remarks/Arguments:

Claims 1-11, 13-31, 33-35, 38-46 and 48 are pending in this application. Claims 1-11, 13-20, and 41-43 were previously withdrawn from consideration. Claim 47 has been cancelled. Review and reconsideration on the merits are requested.

In response to the previous Office action of April 2, 2008, applicants submitted a Declaration under 37 C.F.R. §1.132 by Ms. Holly Garich. The Declaration includes data from tests that show the criticality of the vertical flow that is created in the claimed anode chamber in a channel formed between the workpiece and the porous cloth, both of which are flat and oriented parallel to each other.

In the current Final Office Action dated January 8, 2009, Examiner Leader maintains the rejections from the previous Office Action. The Final Office Action indicates that the rejections are being maintained because the claims are not commensurate in scope with the showing in the §1.132 Declaration. The Office Action clearly suggests that claims commensurate with the data might be allowable.

In response to the §1.132 Declaration, Examiner Leader states that the showing is not commensurate in scope with the claims because: (a) the workpiece is not defined as being flat (see Official Action, paragraph 6); (b) the anode chamber is not defined as being of a size greater than the workpiece (see Official Action, paragraph 7); (c) no description of the porous cloth or its characteristics is provided (see Official Action, paragraph 8); and (d) the eductors are not defined as being horizontally positioned and as redirecting the flow of the electrolyte in a vertical direction (see Official Action, paragraph 9). Independent claim 21 has been amended in response to each of these observations. Specifically, claim 21 now defines the workpiece as being generally flat and vertically oriented; it defines the anode chamber as being larger than the workpiece; it defines the cloth as being flat; it defines the eductors as being horizontally direct; and it defines the solution flow dampening member as being coextensive with the anode chamber and as producing a vertical flow. In view of the foregoing, applicants submit that the claims are

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commensurate with the showing in the §1.132 Declaration. Accordingly, applicants respectfully request that the rejections be withdrawn.

In maintaining the rejection, paragraph 10 of the Official Action suggests that the cloth anode bag shown in Fig. 4 of the Gagnon reference can be considered as being in a planar parallel relationship to the major surface of the workpiece as claimed. Applicants do not understand this position, since the term “planar parallel” requires two planar materials in a parallel relationship. The anode bag illustrated in Fig. 4 of the Gagnon patent is not planar, and, as such, it cannot have a parallel planar relationship with the workpiece. Additionally, while the anode bag may, for convenience, be illustrated using a straight line, in fact, these bags are cylindrical, and like any bags, are not necessarily or inevitably flat. Clearly, applicants’ porous cloth is a flat cloth and not a bag, and this flat cloth and the plane of this cloth is parallel to the plane of the workpiece. If a cylindrical bag can be considered to be in a planar parallel relationship, the opposed plane could be parallel to any tangent to the cylindrical bag. Applicants submit that the bag may be considered “parallel” but not “planar parallel” to the workpiece.

In view of the foregoing, applicants respectfully submit that the claims, as amended, are commensurate in scope with the showing provided in the §1.132 Declaration. Applicants request that this amendment be entered, as the only issue remaining in this case is whether applicants’ showing is commensurate with the claims and applicants have adopted each of the Examiner’s suggestions. Thus, this response clearly simplifies any issues for appeal and would appear to put the case in condition for allowance.

In the event the Examiner wishes to discuss any aspect of this response, he is invited to contact the undersigned at the telephone number indicated below. The Commissioner is hereby authorized to charge any additional fees required, including the fee for an extension of time, or to credit any overpayment to Deposit Account 20-0809. Applicants hereby authorize the Commissioner under 37 C.F.R. §1.136(a)(3) to treat any paper that is filed in this application which requires an extension of time as incorporating a request for such an extension.

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Respectfully submitted,

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